



Colombia FTA Facts

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The United States - Colombia FTA Protects U.S. Ports

The United States - Colombia Free Trade Agreement (CFTA) explicitly clarifies the right of the United States to take any measure it considers necessary to protect national security in relation to U.S. ports or other sectors.

Standard Provisions Regarding Port Services

- The United States - Colombia Free Trade Agreement (FTA) commits each party (subject to specified exceptions) to treat service suppliers and investors of the other party no less favorably than it treats its own service suppliers and investors.
- With respect to “landside aspects of port activities,” the United States is obligated to provide Colombian service suppliers and investors such treatment only to the extent that Colombia provides “comparable market access” to U.S. service suppliers and investors. (The United States made virtually identical commitments in the NAFTA and in the free trade agreements with Australia, Bahrain, Central America and the Dominican Republic, Chile, Morocco, and Oman.)

Full and Explicit Discretion to Protect U.S. National Security

- The United States maintains full discretion under the FTA to take actions to protect the national security. In particular, under the FTA’s “essential security” exception (which all our agreements contain), no provision of the FTA prevents us from applying measures that we consider necessary to protect our essential security.
- This exception is self-judging. The applicability of the exception turns on what the United States considers necessary to protect our essential security, not on a tribunal’s assessment of our essential security. Neither an investor/state arbitration tribunal nor a state/state dispute settlement panel has any authority to second-guess the United States’ assessment of its essential security needs.
- The Colombia FTA further clarifies the self-judging nature of the essential security exception and its application to ports. Specifically, the FTA includes language clarifying that “measures relating to the landside aspects of port activities are subject to the application of [the essential security exception].” A footnote to the essential security exception stipulates that if a party invokes the exception in dispute settlement, “the tribunal or panel hearing the matter shall find that the exception applies.”